IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

ORDER
IN
S.B. Civil Second Appeal No.377/1999

Sita Ram S/o Bhuramal
...defendant-appellant
Versus
Vinod Kumar S/o late Shri Mohan Lal & Another
...plaintiff-respondents

Date of Order ::: 15.12.2006

Present
Hon'ble Mr. Justice Narendra Kumar Jain

Shri G.P. Sharma, Counsel for defendant-appellant
Shri Mahendra Goyal, Counsel for plaintiff-respondents
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By the Court:-

Heard learned counsel for the parties.

The plaintiff-respondents filed a suit for eviction in respect of the rented property, which was dismissed by the lower court. Being aggri4eved with the same, an appeal was preferred by the plaintiff-respondents. During the pendency of the first appeal, the plaintiff-respondents filed an application under Order 41 Rule 27 of the Code of Civil Procedure, along with certain documents, which were found to be material and necessary by the first appellate court, therefore, the application was allowed and consequently the first appellate court allowed the appeal and set aside the judgment and decree passed by the lower court and remanded the matter with a direction to take on record the documents concerned

and to decide the matter afresh after affording an opportunity to the parties. Being aggrieved with the same, the defendant has come before this court in this second appeal.

I have considered the submissions of learned counsel for both the parties and after considering the submissions of learned counsel for both the parties in the light of judgment and decree passed by the first appellate court I find that the first appellate court was right in allowing the application under Order 41 Rule 27 of the CPC in the facts and circumstances of the present case. I do not find any illegality in the impugned judgment passed by the first appellate court.

It is also relevant to mention that no prejudice is caused to the appellant, who is tenant in the rented premises, in the facts and circumstances of the present case, by remanding the case by the first appellate court to the lower court.

No substantial question of law is involved in this second appeal and the same is dismissed at admission stage itself with no order as to costs.

(Narendra Kumar Jain) J.

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